

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

05 10791 GAO Civil Action No. \_\_\_\_\_

PATRICIA COSGROVE,

Plaintiff,

v.

NEW SEABURY RESOURCES  
MANAGEMENT, INC.,

Defendant.

MAGISTRATE JUDGE \_\_\_\_\_

**JURY DEMANDED**

RECEIPT # \_\_\_\_\_  
AMOUNT \$ \_\_\_\_\_  
SUMMONS ISSUED \_\_\_\_\_  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. \_\_\_\_\_  
DATE \_\_\_\_\_

**COMPLAINT**

**I. INTRODUCTION**

This is an action for unlawful sex and pregnancy discrimination, and retaliation and a violation of the Family and Medical Leave Act ("FMLA"). As set forth below, Plaintiff Patricia Cosgrove worked for four years as Sales Manager for defendant New Seabury Resources Management, Inc. During her employment, Plaintiff's performance was excellent. However, shortly after announcing she was pregnant, Plaintiff was told by her employer that she would be demoted to an administrative assistant position. Defendant demoted Plaintiff while she was out on maternity leave, and then retaliated against her after she complained the demotion was discriminatory by terminating her almost immediately upon her return from maternity leave. Plaintiff now seeks lost wages and benefits, emotional distress damages, punitive damages, attorneys' fees, and costs, all as provided for by law.

## **II. PARTIES**

1. Plaintiff Patricia Cosgrove is an adult resident of East Falmouth, Massachusetts.

2. Defendant New Seabury Resources Management, Inc. is a business incorporated in Delaware with offices in Mashpee, Massachusetts.

3. On information and belief, Defendant has at least 50 employees.

## **III. STATEMENT OF FACTS**

4. Plaintiff Patricia Cosgrove ("Cosgrove") was hired as an Account Executive by defendant in April 1999. Within two months, she was promoted to the position of Sales Manager.

5. During her employment there, Plaintiff's work performance was excellent.

6. In February, 2003, Cosgrove informed her general manager, Steven Brennan ("Brennan"), that she was pregnant.

7. When Cosgrove informed Brennan that she planned to return to work after her maternity leave, one of his comments in response was to the effect of "unless you're like my wife, in which case you'll never come back."

8. On April 28, 2003, Brennan told Cosgrove that her position of sales manager was being eliminated as of the following week, and informed Cosgrove that she was being demoted to an administrative assistant position.

9. The demotion reduced Cosgrove's salary by 30%, diminished her responsibilities, and required her to work weekends.

10. On May 2, 2003, Cosgrove complained in writing to Brennan that the demotion was pregnancy discrimination, and informed him that she planned to file a complaint with the Massachusetts Commission Against Discrimination.

11. Cosgrove also stated in her letter that she would accept the demotion if it was the only way she could stay employed, and that she intended to return to work at New Seabury after her maternity leave.

12. Shortly after she was demoted, Cosgrove left work on a medical leave as recommended by her physician, due to complications with her pregnancy.

13. Cosgrove returned to work on the exact day her twelve-week maternity leave elapsed, October 7, 2003.

14. When she returned to work, Brennan told her that she had no job, not even the administrative assistant position to which she had been demoted.

15. Cosgrove insisted that Brennan give her the job that defendant had demoted her to prior to her maternity leave.

16. Cosgrove was then given the option of being unemployed, or working in defendant's warehouse scanning documents.

17. Cosgrove immediately reported to the warehouse to begin scanning documents. The warehouse was cold and unheated, and Cosgrove was required to work in isolation all day.

18. Cosgrove was never given the job of administrative assistant after she returned from maternity leave.

19. Cosgrove, through her attorney, wrote to Brennan and New Seabury, and included a copy of the Charge of Discrimination she intended to file at the Massachusetts Commission Against Discrimination. Shortly thereafter, Cosgrove sent an e-mail to Brennan, asking him to be moved from the warehouse to a vacant office in defendant's regular facility, and stating that she did not believe that scanning files in the warehouse was part of the administrative assistant's job.

20. Immediately thereafter, Brennan terminated Cosgrove.

21. As a result of Defendants' conduct, Plaintiff has suffered emotional distress, as well as a loss of back pay, front pay, benefits, and other damages as set forth herein.

22. On information and belief, other pregnant employees at Defendant have also had their positions eliminated shortly after they announced they were pregnant.

#### **IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES**

23. Pursuant to state and federal requirements, Plaintiff filed her discrimination and retaliation claims at the Massachusetts Commission Against Discrimination ("MCAD") and received a right-to-sue letter prior to filing this lawsuit.

**COUNT I**

**SEX AND PREGNANCY DISCRIMINATION**

Defendant's conduct, as set forth above, constitutes unlawful sex and pregnancy discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and Mass. Gen. L. c. 151B § 4(1).

**COUNT II**

**RETALIATION**

Defendant's conduct, as set forth above, constitutes unlawful retaliation in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, and Mass. Gen. L. c. 151B § 4(4).

**COUNT III**

**FAMILY AND MEDICAL LEAVE ACT**

Defendant's conduct, as set forth above, constitutes a violation of the Family and Medical Leave Act, 29 U.S.C. § 2614.

**JURY DEMAND**

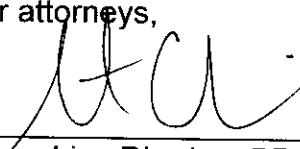
Plaintiff requests a trial by jury on all of her claims.

WHEREFORE, Plaintiff requests that this Court enter the following relief:

1. Reinstatement
2. Back pay
3. Lost benefits
4. Front pay
5. Emotional distress damages
6. Punitive damages
7. Attorneys' fees and costs
8. Any other relief to which Plaintiff may be entitled.

Respectfully submitted,

PATRICIA COSGROVE,  
By her attorneys,



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Shannon Liss-Riordan, BBO #640716  
M. Amy Carlin BBO #638446  
PYLE, ROME, LICHTEN, EHRENBURG  
& LISS-RIORDAN, P.C.  
18 Tremont Street, 5<sup>th</sup> Floor  
Boston, MA 02108  
(617) 367-7200

Dated: April 20, 2005

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Patricia Cosgrove v. New Seabury Resources Management, Inc.

2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

- I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820\*, 830\*, 840\*, 850, 890, 892-894, 895, 950. \*Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- X IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- V. 150, 152, 153.

TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(G)). IF MORE THAN ONE PRIOR RELATED CASE HAS BEEN FILED IN THIS DISTRICT PLEASE INDICATE THE TITLE AND NUMBER OF THE FIRST FILED CASE IN THIS COURT.

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS COURT?

YES

NO

DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE PUBLIC INTEREST? (SEE 28 USC §2403)

YES

NO

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES

NO

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO TITLE 28 USC §2284?

YES

NO

7. DO ALL OF THE PARTIES IN THIS ACTION, EXCLUDING GOVERNMENTAL AGENCIES OF THE UNITED STATES AND THE COMMONWEALTH OF MASSACHUSETTS ("GOVERNMENTAL AGENCIES"), RESIDING IN MASSACHUSETTS RESIDE IN THE SAME DIVISION? - (SEE LOCAL RULE 40.1(D)).

YES

NO

A. IF YES, IN WHICH DIVISION DO ALL OF THE NON-GOVERNMENTAL PARTIES RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

B. IF NO, IN WHICH DIVISION DO THE MAJORITY OF THE PLAINTIFFS OR THE ONLY PARTIES, EXCLUDING GOVERNMENTAL AGENCIES, RESIDING IN MASSACHUSETTS RESIDE?

EASTERN DIVISION

CENTRAL DIVISION

WESTERN DIVISION

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME M. Amy Carlin and Shannon Liss-Riordan at Pyle, Rome, Lichten, Ehrenberg

ADDRESS 18 Tremont St., Suite 500, Boston MA 02108 & Liss-Riordan, P.C.

TELEPHONE NO. (617) 367-7200

JS 44 (Rev. 3/99)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Patricia Cosgrove

(b) County of Residence of First Listed Plaintiff Barnstable  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

M. Amy Carlin at Pyle, Rome, Lichten, Ehrenberg  
& Liss-Riordan, P.C.  
18 Tremont St., Ste 500, Boston MA 02108  
(617) 367-7200

**DEFENDANTS**

New Seabury Resources Management, Inc.

County of Residence of First Listed \_\_\_\_\_  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

Howard Wilgorn, Esq.

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ 1 ☐ 1 DEF Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4 DEF
- Citizen of Another State ☐ 2 ☐ 2 Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions

**V. ORIGIN** (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Recopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

42 U.S.C. Section 2000e et seq. This is an action for unlawful sex and pregnancy discrimination, 29 U.S.C. Section 2614 and for retaliation and a violation of Family Medical Act against Plaintiff's former employer.

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$250,000

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

4/20/05

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING FEE \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_